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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-68430; File No. SR-NYSEArca-2012-111)

December 13, 2012

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, to List and Trade Units of the Sprott Physical Platinum and Palladium Trust Pursuant to NYSE Arca Equities Rule 8.201

I. Introduction

On October 9, 2012, NYSE Arca, Inc. (“Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade units (“Units”) of the Sprott Physical Platinum and Palladium Trust (“Trust”) pursuant to NYSE Arca Equities Rule 8.201. On October 24, 2012, the Exchange submitted Amendment No. 1 to the proposed rule change. The proposed rule change was published for comment in the Federal Register on October 30, 2012.³ The Commission received no comment letters regarding the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to list and trade the Units⁴ under NYSE Arca Equities Rule 8.201. NYSE Arca represents that the Units satisfy the requirements of NYSE Arca Equities

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 68101 (October 24, 2012), 77 FR 65732 (“Notice”) (noticing the filing of the proposed rule change as modified by Amendment No. 1).

⁴ Each Unit will represent an equal, fractional, undivided interest in the net assets of the Trust attributable to the particular class of Units. See Notice, supra note 3, 77 FR at 65735.

Rule 8.201 and thereby qualify for listing and trading on the Exchange.⁵

Sprott Asset Management LP is the sponsor and manager of the Trust (“Sponsor” or “Manager”).⁶ RBC Investor Services (“RBC”) is the trustee and valuation agent of the Trust (“Valuation Agent”), as well as the custodian of the Trust’s assets other than physical platinum and palladium bullion.⁷ The Royal Canadian Mint is the custodian for the physical platinum and palladium bullion owned by the Trust (“Platinum and Palladium Custodian”).

The Trust will issue the Units in an initial public offering.⁸ The Trust may not issue additional Units following the completion of the initial public offering except under certain

⁵ With respect to application of Rule 10A-3 under the Act, the Trust relies on the exemption contained in Rule 10A-3(c)(7). See Notice, supra note 3, 77 FR at 65733 n.17.

⁶ The Manager is a limited partnership existing under the laws of Ontario, Canada, and acts as manager of the Trust pursuant to the trust agreement and the management agreement. The Manager has adopted a policy pursuant to which no entity or account that is (a) managed or (b) for whom investment decisions are made, directly or indirectly, by a person that is involved in the decision-making process of, or has nonpublic information about, follow-on offerings of the Trust (“Decision Maker”) is permitted to invest in the Trust, and no Decision Maker is permitted to invest in the Trust for the Decision Maker’s account or benefit, directly or indirectly. See Notice, supra note 3, 77 FR at 65732 n.11. Additional details regarding the Trust are set forth the registration statement for the Trust, most recently amended on September 4, 2012 (No. 333-179017) (“Registration Statement”).

⁷ RBC is affiliated with a broker-dealer. RBC has represented to the Exchange that it has put in place and will maintain the appropriate information barriers and controls between itself and the broker-dealer affiliate so that the broker-dealer affiliate will not have access to information concerning the composition and/or changes to the Trust’s holdings that are not available on the Trust’s website. See Notice, supra note 3, 77 FR at 65732 n.12.

⁸ To purchase physical platinum and palladium bullion, the Manager will create an order internally and send it for pre-trade compliance review. Once the order has been approved, the order will be placed by one of the Manager’s traders. Orders generally will be placed by phone and through electronic dealing systems. Lists of the plates and ingots available to fill the buy order will be sent to the Manager by a bullion broker with whom the Manager has an established relationship. While the Manager will work with a bullion broker with whom the Manager has an established relationship, the Manager has

conditions. NYSE Arca will require that a minimum of 1,000,000 Units be outstanding at the start of trading.

The Trust's investment objective is to invest and hold substantially all of its assets in physical platinum and palladium bullion. Except with respect to cash held by the Trust to pay expenses and anticipated cash redemptions,⁹ the Trust expects to own only physical platinum and palladium bullion that is certified as conforming to the Good Delivery Standard ("Good Delivery") of the London Platinum and Palladium Market. The Trust will purchase approximately equal dollar amounts of physical platinum and palladium. The Manager expects to invest and hold approximately 97% of the total net assets of the Trust in physical platinum and palladium bullion.

The Units will be redeemable monthly for physical platinum and palladium bullion or for cash at the option of the Unitholder, subject to certain conditions. Redemption requests for physical platinum and palladium bullion must be for a minimum of 25,000 Units. A redemption request for physical platinum and palladium bullion must be received by the Trust's transfer agent no later than 4:00 p.m. E.T. on the 15th day of the month in which such redemption notice will be processed, or if such day is not a Business Day,¹⁰ then on the immediately following day

represented that it will make all purchases of physical platinum and palladium bullion on an arms-length basis and will not make purchases from affiliated entities. See Notice, supra note 3, 77 FR at 65735.

⁹ The Trust can hold no more than ten percent of the assets in cash or other specified investments. See Notice, supra note 3, 77 FR at 65734–35 n.21.

¹⁰ A "Business Day" is a day on which the Exchange or the Toronto Stock Exchange ("TSX") is open for trading. The Exchange states that the Units will trade on both the Exchange and the TSX. See Notice, supra note 3, 77 FR at 65735.

that is a Business Day.¹¹ Generally, the Units redeemed for physical platinum and palladium bullion will have a redemption value equal to the aggregate value of the net asset value (“NAV”) per Unit of the redeemed Units on the last day on which the Exchange is open for trading in the month during which the redemption request is processed, less applicable expenses (“Redemption Amount”). The Manager will allocate the Redemption Amount to physical platinum and palladium bullion in direct proportion to the value of physical platinum and palladium bullion held by the Trust at the time of redemption (“Bullion Redemption Amount”).¹²

The Units redeemed for cash will receive a redemption price equal to 95% of the lesser of: (i) the volume-weighted average trading price of the Units traded on NYSE Arca or, if trading has been suspended on NYSE Arca, the volume-weighted average trading price of the Units traded on the TSX, for the last five days on which the respective exchange is open for trading during the month in which the redemption request is processed; or (ii) the NAV per Unit of the redeemed Units on the last day of such month on which NYSE Arca is open for trading.

Additional information can be found in the Notice and in the Registration Statement regarding: the Trust; the Units; the Trust’s investment objectives, strategies, policies, and restrictions; fees and expenses; creation and redemption of Units; the physical platinum and

¹¹ Any bullion redemption notice received after such time will be processed in the next month.

¹² Any Bullion Redemption Amount in excess of the value of the Good Delivery plates or ingots, as the case may be, of the particular metal to be delivered to the redeeming Unitholder will be paid in cash, as such excess amount will not be combined with any excess amounts in respect of the other metal for the purpose of delivering additional physical platinum and palladium bullion. See Notice, supra note 3, 77 FR at 65736.

palladium markets; availability of information; trading rules and halts; and surveillance procedures.¹³

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act¹⁴ and the rules and regulations thereunder applicable to a national securities exchange.¹⁵ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,¹⁶ which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In addition, the Commission finds that the proposal to list and trade Units on NYSE Arca is consistent with Section 11(a)(1)(C)(iii) of the Act,¹⁷ which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotation and last-sale information for the Units will be available via the Consolidated Tape Association. The Trust's website will provide an intraday indicative value

¹³ See Notice and the Registration Statement, supra notes 3 and 6, respectively.

¹⁴ 15 U.S.C. 78f.

¹⁵ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁶ 15 U.S.C. 78f(b)(5).

¹⁷ 15 U.S.C. 78k-1(a)(1)(C)(iii).

(“IIV”) per unit for the Units, as calculated by a third-party financial data provider during NYSE Arca’s Core Trading Session (9:30 a.m. to 4:00 p.m. E.T.).¹⁸ In addition, the Trust’s website will contain the following information, on a per-Unit basis, for the Trust: (a) the midpoint of the bid-ask price at the close of trading in relation to the NAV as of the time the NAV is calculated (“Bid/Ask Price”), and a calculation of the premium or discount of such price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. The Trust’s website will also provide the Trust’s prospectus, the two most recent reports to Unitholders, the last sale price of the Units as traded in the U.S. market, and a breakdown, calculated on a daily basis, of the holdings of the Trust by metal type. In addition, NYSE Arca will make available over the Consolidated Tape quotation information, trading volume, closing prices, and NAV per Unit from the previous day.

The Commission believes that the proposal to list and trade the Units is reasonably designed to promote fair disclosure of information that may be necessary to price the Units appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. As discussed above, the Trust will publish on its website: a breakdown of the holdings of the

¹⁸ The IIV will be calculated by: (1) multiplying the total number of ounces of physical platinum bullion held by the Trust as of the close of business on the previous day with the mid-price of spot platinum per ounce (“Platinum IIV”); (2) multiplying the total number of ounces of physical palladium bullion held by the Trust as of the close of business on the previous day with the mid-price of spot palladium per ounce (“Palladium IIV”); (3) adding the Platinum IIV to the Palladium IIV and the fair market value of the assets of the Trust that are not physical platinum or palladium bullion as of the close of business on the previous day (such sum, “IIV Assets”); (4) subtracting the fair market value of the Trust’s total liabilities (excluding all liabilities represented by the outstanding Units, if any) as of the close of business on the previous day from the IIV Assets; and (5) dividing the result by the number of Units outstanding as of the close of business on the previous day.

Trust by metal type; the NAV of the Trust; the IIV per Unit; the Trust's prospectus; and the last sale price of the Units as traded in the U.S. market. The Commission notes that the Exchange will obtain a representation from the Trust prior to the commencement of trading of the Units that the NAV per Unit will be calculated daily and made available to all market participants at the same time.

Under NYSE Arca Equities Rule 7.34(a)(5), if the Exchange becomes aware that the NAV is not being disseminated to all market participants at the same time, it must halt trading on the NYSE Marketplace until such time as the NAV is available to all market participants. Additionally, if the IIV is not being disseminated as required, the Exchange may halt trading during the day in which the disruption occurs. If the interruption persists past the day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. Further, the Exchange will consider suspension of trading pursuant to NYSE Arca Rule 8.201(e)(2) if, after the initial 12-month period following commencement of trading: (1) the value of platinum or palladium is no longer calculated or available on at least a 15-second delayed basis from a source unaffiliated with the Sponsor, Trust, or Platinum and Palladium Custodian, or the Exchange stops providing a hyperlink on its website to any such unaffiliated commodity value; or (2) if the IIV is no longer made available on at least a 15-second delayed basis.¹⁹ NYSE Arca will halt trading in the Units on the Exchange in the event the Trust directs

¹⁹ More generally, NYSE Arca may halt trading on the Exchange in the Units because of market conditions or for reasons that, in the Exchange's view, make trading in the Units inadvisable, including: (1) the extent to which conditions in the underlying platinum or palladium market have caused disruptions and/or lack of trading; (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present; or (3) if trading in the Units is halted on TSX. See Notice, supra note 3, 77 FR at 65738. Additionally, trading in the Units will be subject to trading halts

the Trust's Valuation Agent to suspend the calculation of the value of the net assets of the Trust and the NAV.²⁰ NYSE Arca Equities Rule 8.201(e)(2) also provides that NYSE Arca may seek to delist the Units in the event the value of the underlying commodity or the IIV is no longer calculated or available as required.

In support of this proposal, NYSE Arca has made representations, including:

- (1) The Units will be subject to the initial and continued listing criteria under NYSE Arca Equities Rule 8.201.
- (2) NYSE Arca's surveillance procedures are adequate to properly monitor Exchange trading of the Units in all trading sessions and to deter and detect violations of NYSE Arca rules and applicable federal securities laws.²¹

caused by extraordinary market volatility pursuant to NYSE Arca's "circuit breaker" rule. See NYSE Arca Equities Rule 7.12.

²⁰ See Notice, *supra* note 3, 77 FR at 65739.

²¹ To support this, NYSE Arca states that, pursuant to NYSE Arca Equities Rule 8.201(g), it is able to obtain information regarding trading in the Units; physical platinum and palladium; platinum or palladium futures contracts; options on platinum or palladium futures; or any other platinum or palladium derivative from ETP Holders acting as registered Market Makers, in connection with their proprietary or customer trades. More generally, NYSE Arca states that it has regulatory jurisdiction over its ETP Holders and their associated persons, which includes any person or entity controlling an ETP Holder. With respect to a subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts, the Exchange states that it could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member. Further, NYSE Arca states that it may obtain trading information via the Intermarket Surveillance Group ("ISG") from other exchanges that are members of the ISG, including the Commodity Exchange, Inc. ("COMEX"). The Exchange also states that The Investment Industry Regulatory Organization of Canada and the New York Mercantile Exchange, of which COMEX is a division, are ISG members. The Investment Industry Regulatory Organization of Canada oversees Canadian broker-dealers and trading activity on the TSX. See Securities Exchange Act Release No. 63043 (October 5, 2010), 75 FR 62615, 62619 n.26 (October 12, 2010).

- (3) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Units. Specifically, the Information Bulletin will discuss the following: (a) the procedures for purchases and redemptions of Units; (b) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Units; (c) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Units prior to or concurrently with the confirmation of a transaction; (d) the possibility that trading spreads and the resulting premium or discount on the Units may widen as a result of reduced liquidity of platinum and palladium trading during the Core and Late Trading Sessions after the close of the major world platinum and palladium markets; and (e) trading information.

This approval order is based on the Exchange's representations.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with Section 6(b)(5) of the Act²² and the rules and regulations thereunder applicable to a national securities exchange.

²² 15 U.S.C. 78f(b)(5).

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,²³ that the proposed rule change (SR-NYSEArca-2012-111), as modified by Amendment No. 1, is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

Kevin M. O'Neill
Deputy Secretary

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²³ 15 U.S.C. 78s(b)(2).

²⁴ 17 CFR 200.30-3(a)(12).